



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/809,617	03/25/2004	Katy Drieu	427.035-DIV.	7475
47888	7590	07/31/2006	EXAMINER	
HEDMAN & COSTIGAN P.C. 1185 AVENUE OF THE AMERICAS NEW YORK, NY 10036			SRIVASTAVA, KAILASH C	
			ART UNIT	PAPER NUMBER
			1655	
DATE MAILED: 07/31/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/809,617

**Applicant(s)**

DRIEU, KATY

**Examiner**

Dr. Kailash C. Srivastava

**Art Unit**

1655

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 4-8 and 10-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 4-8 and 10-16 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

## DETAILED ACTION

1. Applicant's Preliminary amendment filed 25 March 2004 is acknowledged and entered.
2. Your application has been assigned to Art Unit 1655 at the United States Patent and Trademark Office (i.e., USPTO). To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to the Art Unit 1655.
3. Your application under prosecution at the USPTO is assigned to Dr Kailash C. Srivastava. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Examiner Kailash C. Srivastava in Art Unit 1655.
4. Once a response/filing arrives at the United States Patent and Trademark Office (i.e., USPTO), the claims, remarks, amendments etc., are separated for proper coding to scan them in the electronic file wrapper (i.e., IFW). In order to ensure that all the papers pertaining to a particular application are properly coded in the same application electronic file wrapper, and to further facilitate the prosecution; especially during a telephonic conversation/interview with applicant/applicant's representative, Examiner suggests that applicant recites in the header of the each page for any new filing/response/amendment, the U.S. Non-Provisional application Number (e.g., 10/809.617) filing date for said application (e.g., 25 March 2004), Applicant's name (e.g., K JONES) Attorney Docket Number, Group Art Unit Number (e.g., 1655), Examiner's name (e.g., Dr. Kailash C. Srivastava) and Document Page number (e.g., 1) along with date of amendment/response. This practice immensely ameliorates the chances of papers lost during transaction/transmission and indexing.

## Claims Status

5. Claims 11-16 have been added.
6. Claims 1-3 and 9 have been cancelled.
7. Claims 4-8 and 10 have been amended
8. Claims 4-8 and 10-16 are pending and are examined on merits.

## Election/Restriction

9. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - Group I, consisting of claims 4 and 5 drawn to a method to treat the withdrawal symptoms for substance dependency in an individual comprising administering to said individual a

composition comprising a plant extract, classified under Class 424, Subclass 725, for example.

- Group II, consisting of claims 6-8 drawn to a method to treat the withdrawal symptoms for substance dependency in an individual comprising administering to said individual a compound of a specific chemical formula and structure, classified under Class 514, Subclass 23, for example.
- Group III, consisting of claims 12 and 16 drawn to a method to treat the withdrawal symptoms for substance dependency in an individual comprising administering to said individual, wherein the substance is tobacco or toxicomaniac drugs, classified under Class 514, Subclass 23, for example.
- Group IV, consisting of claims 10 and 13 drawn to a method to treat the withdrawal symptoms for substance dependency in an individual comprising administering to said individual a composition comprising an extract containing a ginkgolide, wherein said composition comprises a salt of ginkgolide or a ginkgolide, wherein said ginkgolide is acylated, alkoxyated, glycosylated, or non-glycosylated, classified under Class 424, Subclass 752, for example.
- Group V, consisting of claims 10 and 13 drawn to a fifth method to treat the withdrawal symptoms for substance dependency in an individual comprising administering to said individual a composition comprising Ginkgo biloba extract having among other components, less than 5 to 10 ppm alkylphenol type compounds, classified under Class 514, Subclass 22, for example.

### Linking Claims

10. Claim 11 links inventions in Groups I-V. The restriction requirement between the linked inventions is subject to the non-allowance of the linking claims, identified above. Upon the allowance of the linking claims, the restriction requirement as to the linked inventions shall be withdrawn and any claims depending from or otherwise including all the limitations of the allowable linking claims will be entitled to examination in the instant application. Applicants are advised that if any such claims depending from or including all the limitations of the allowable linking claims are presented in a continuation or divisional application, the claims of the continuation or divisional application may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Where a restriction requirement is withdrawn, the provisions of 35 U.S.C. §121 are no longer applicable. In re Ziegler, 44 F.2d 1211, 1215, 170 USPQ 129, 131- 32 (CCPA 1971). See also MPEP §804.01.

### **Inventions are Independent and Distinct**

11. Inventions in Groups I-V are unrelated to each other because each one of them is directed to different inventions that are not connected in components, design, operation and/or effect. These inventions are independent since they are not disclosed as capable of use together. They have different components, functions or different modes of operation, and/or they have different effects. One would not have to practice the various methods at the same time to practice just one method alone (MPEP § 806.04, MPEP § 808.01). In the instant case, for example invention recited in claims encompassed in Group I is to a method that encompasses administering a composition comprising constituents having chemical formula and or structure than the invention in Group II for example. Thus, inventions in each of Groups I-V have different composition comprising different constituents and therefore, those inventions cannot be practiced together.

The inventions discussed above are independent and distinct, each from the other. They have acquired a separate status in the art as a separate subject for inventive effect and require independent searches. The search for each one of the above inventions is not coextensive particularly with regard to the literature search. For example, the search strategy for invention in Group I will not essentially require all the key words that will be required in the search strategy for the inventive Group IV for example. Similarly, the search strategy for inventions in each of the Groups I-V will be different. Further, a reference that would anticipate the invention of one group would not necessarily anticipate or even make obvious another group. Finally, the consideration for patentability is different in each case. Thus, it would be an undue burden to examine all of the above inventions in one application. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification (i.e., Class and subclass), and their recognized diverse subject matter, restriction for examination purposes as indicated is proper.

12. Applicants are advised that a reply to this requirement must include an identification of an invention elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicants will be entitled to consideration of additional claims which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR §1.141. Currently, Claims 26, 32 and 33 are generic claims. In either instance, if the Examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.


13. Applicants are reminded that upon the cancellation of claims to a non-elected invention, the

inventorship must be amended in compliance with 37 CFR §1.48(b). Any amendment of inventorship must be accompanied by a petition under 37 CFR §1.48(b) and by the fee required under 37 CFR §1.17(l).


14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Kailash C. Srivastava whose telephone number is (571) 272-0923. The examiner can normally be reached on Monday to Thursday from 7:30 A.M. to 6:00 P.M. (Eastern Standard or Daylight Savings Time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Terry McKelvey, can be reached on (571)-272-0775 Monday through Friday 8:30 A.M. to 5:00 P.M. The fax phone number for the organization where this application or proceeding is assigned is (571)-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding may be obtained from the Patent Application Information Retrieval (i.e., PAIR) system. Status information for the published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (i.e., EBC) at: (866)-217-9197 (toll-free). Alternatively, status inquiries should be directed to the receptionist whose telephone number is (703) 308-0196.

 Kailash C. Srivastava, Ph.D.  
Patent Examiner  
Art Unit 1655  
(571) 272-0923

July 18, 2006

  
RALPH GITOMER  
PRIMARY EXAMINER  
GROUP 1200